

Message Text

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ACTION L-03

INFO OCT-01 ARA-16 ISO-00 SNM-02 SCA-01 SSO-00 DRC-01

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FM AMEMBASSY BRASILIA

TO SECSTATE WASHDC NIACT IMMEDIATE 5751

INFO DEA HQS WASHDC NIACT IMMEDIATE

DEPARTMENT OF JUSTICE NIACT IMMEDIATE

AMEMBASSY CARACAS

LIMITED OFFICIAL USE BRASILIA 7386

E.O.11652: N/A

TAGS: SNAR, BR

SUCJECT: EXTRADITION OF FRANCISCO ULISES SCOCOZZA-VALIENTE

REF: STATE 212255

1. IN RESPONSE TO PARAGRAPH TWO REFTEL, FOLLOWING IS BACKGROUND OF PROCEDURE IN SUBJECT EXTRADITION CASE. EXTRADITION REQUEST WAS FORWARDED TO SUPREME COURT BY MINISTRY OF JUSTICE IN MID-JULY. CASE WAS SUBSEQUENTLY REFERRED BY COURT TO ATTORNEY GENERAL FOR LEGAL OPINION. ATTORNEY GENERAL RESPONDED TO COURT YESTERDAY THAT, ON BASIS OF EVIDENCE CONTAINED IN EXTRADITION REQUEST, DEFENDENT IS NOT EXTRADITABLE. WE UNDERSTAND THAT ATTORNEY GENERAL HAS COMMUNICATED THIS OPINION TO THE COURT WITHOUT PREJUDICE TO ANY OTHER ELEMENTS OF PROOF THAT MAY BE PRESENTED SUBSEQUENTLY. ATTORNEY GENERAL IS EXPECTED TO REITERATE HIS UNFAVORABLE OPINION WITH REGARD TO EXTRADITION AT FORMAL HEARING WHICH IS EXPECTED TO BE SCHEDULED SOMETIME NEXT WEEK.

2. WE UNDERSTAND FROM LOCAL ATTORNEYS AND POLICE SOURCES THAT, ACCORDING TO BRAZILIAN LAW AND PRACTICE, ONCE EXTRADITION REQUEST HAS BEEN PRESENTED TO SUPREME COURT, NO ADDITIONAL DOCUMENTS MAY BE PRESENTED BY THE MINISTRY OF JUSTICE. IN ADDITION, ATTORNEY GENERAL IS LIMITED TO COMMENTING ON MATERIAL INCLUDED IN LIMITED OFFICIAL USE

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THE EXTRADITION REQUEST AND ON HIS INTERPRETATION OF THE LAW.

AS MENTIONED ABOVE, IN THIS CASE HE WILL BE SUSTAINING THE VIEWS
OF THE DEFENSE COUNSEL.

3. A LOCAL ATTORNEY REPRESENTING THE USG, ACCORDING TO A
NUMBER OF PRECEDENTS IN PAST EXTRADITION REQUESTS, CAN PRESENT
ADDITIONAL EVIDENCE IN DOCUMENTARY FORM INCLUDING NEW ELEMENTS OF
PROOF NOT MENTIONED IN THE ORIGINAL EXTRADITION REQUEST, CAN SUPPLY
THE JUSTICES OF THE SUPREME COURT WITH A RESUME OF THE CASE EXPLAINING

THE FACTS AND THE ATTENDANT POINTS OF LAW AND CAN PRESENT
VERBAL ARGUMENTS DURING THE HEARING. PERHAPS MORE IMPORTANT IN THIS
CASE, HE CAN ATTEMPT TO OBTAIN THE POSTPONEMENT OF THE HEARING
PENDING THE ARRIVAL OF DEPOSITIONS AND STATEMENTS FROM THE U.S.

4. IN THE JUDGEMENT OF THE EMBASSY, WITHOUT A LOCAL ATTORNEY
REPRESENTING THE USG BEFORE THE SUPREME COURT, WE WILL LOSE THE
CASE. WE URGE THAT AUTHORIZATION TO CONTRACT AN ATTORNEY BE
TRANSMITTED SOONEST.

5. WE HAVE JUST RECEIVED WORD FROM AN INFORMANT WITHIN THE
SUPREME COURT THAT THE ATTORNEY GENERAL'S OPINION HAS JUST BEEN
RECEIVED AND IS BEING CARRIED BY THE DEFENSE COUNSEL TO THE
COURT RAPPOREUR IN AN ATTEMPT TO EXPEDITE THE PROCESS.
CRIMMINS

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